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IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1413 of 2007

Dr.Aditya Kuldiprai Kapil & ors. .. Applicants

versus

State of Maharashtra & Anr. .. Respondents

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Mr.Shekhar A. Ingawale for the applicant.

Mr.K.V. Saste, APP for respondent no.1.

Ms.Vishranti A. Navale for respondent no.2.

CORAM : D.G.KARNIK, J

DATED : 22nd November 2007

P.C.:

1. Heard learned counsel for the applicant, learned APP for the Respondent no.1 and learned counsel for respondent no.2.

2. The applicants seek Anticipatory Bail under section 438 of the Code of Criminal Procedure in respect of C.R. no.I-78 of 2007 registered at Thanenagar Police station punishable under section 498, 504, r/w sec.34 of the IPC.

3. The applicant no.1 is the husband and respondent no.2 is the wife. Their marriage took place on 10th July 2003 and two children are born out of the wedlock. The marriage has turned sour. Previously, several complaints were made by the respondent no.2 to the Social Security Cell, Commissionerate of Police, Thane and attempts of reconciliation were made atleast on two occasions by the police. Respondent no.2 returned home in pursuance of the efforts of the Social Security Cell of the police. There were attempts of settlement between the parties even during the pendency of this application for a divorce by mutual consent but the terms of exchange of properties were not settled.

3. I have perused the First Information report dated 24th March 2007 as also the affidavit in reply filed by the applicant no.1 and the documents annexed thereto. It does appear that from the documents the applicant no.1 had spend the money for treatment during the pregnancy/ delivery of the respondent no.2 and has been spending money on her. As regards the allegation that the streedhan property belonging to the respondent no.2 is misappropriated by the applicants, most of the ornaments and valuables (32 in number) have been seized and recovered under a

panchnama dated 5th April 2007. In the circumstances, it does appear that custodial interrogation of any of the applicants is not necessary.

4. The respondent no.2 appears to have involved other relatives of her husband unnecessarily. The applicant nos.3 and 4 are the parents of the applicant no.1 and are residents of Bilaspur Chhatisgarh. The applicant no.2 is the sister of applicant no.1 and was initially residing with the applicant no.1 at Thane. However on account of the matrimonial dispute between the applicant no.1 and the respondent no.2, she appears to be residing separetely. Presence of none of them for custodial interrogation appears to be necessary. However, applicants can be directed to attend the police station for the purpose of investigation as and when necessary. In the circumstances, I pass the following order ;-

O R D E R

. In the event of arrest of the applicants under C.R. No.I-78/2007 registered at Thane Nagar police station, each of the applicants shall be released on bail subject to the following

conditions:-

. The applicant no.1 shall be released on P.R. bond of Rs.50,000 with one or two sureties to make the aggregate of that amount. The applicant nos.2 to 4 shall be released on P.R. bond of Rs.10,000/- each with one surety of the like amount. Bail is granted subject to the following conditions:-

i) The applicants shall attend the police station for investigation as and when required by the police and shall co-operate with the investigation.

ii) The applicants shall not make any offer of inducement nor issue threats to any of the prosecution witnesses.

. It is clarified that all observations made in this order are only preliminary for the purpose of bail application only.

(D.G. KARNIK, J)